

San Jose Councilman Proposes Medical Pot Rules by John Woolfolk,
San Jose Mercury News, November 4, 2009

Medicinal marijuana dispensaries have sprouted all around Northern California since state voters 13 years ago legalized the drug's use for treating disease.

But in San Jose, not so much. The one currently operating has been open just four months.

San Jose City Councilman Pierluigi Oliverio says it's time for the city to be more welcoming toward medicinal marijuana dispensaries, and he's proposed an ordinance based on those in other Bay Area cities to regulate and tax them. A committee chaired by Mayor Chuck Reed on Wednesday (November 4, 2009) will consider scheduling a City Council vote on the proposal.

"The use of cannabis for medical purposes has gained legitimacy in our culture," Oliverio said. He added that "allowing medical use of cannabis within city borders will bring additional revenue" to a city drowning in nine straight years of red ink.

Longtime medicinal marijuana activists like Kris Hermes of Oakland-based Americans for Safe Access called it a "welcome development."

"There's been a fairly high level of frustration among patients and advocates in Santa Clara County," Hermes said, noting that many patients "are forced to drive to outlying areas to get their medical marijuana."

Even so, Hermes had concerns about Oliverio's proposed regulations and called the proposed fees and taxes on dispensaries "unduly onerous."

Oliverio proposes restricting the cultivation and sale of medicinal marijuana to industrial areas; prohibiting on-site use; and limiting the number of dispensaries. He also calls for a \$10,000 permit application fee and a 3 percent "cannabis business tax," as well as \$1,000 fines for staff or patients who illegally use or sell marijuana for other than medicinal purposes.

Tax revenues would go to a special fund for police and road maintenance.

Hermes said limiting dispensaries to industrial zones "causes hardship for those patients with mobility or economic issues." He also said the market, rather than the city, should determine "how many and which dispensaries survive."

Hermes said there is "no good reason to prohibit on-site consumption" because patients benefit from interacting with each other. Finally, he noted that the proposed tax is substantially higher than Oakland's 1.8 percent.

Oliverio said in response that "in San Jose, we care about where we put things. We're looking at a very pragmatic first step."

Gus Donowho, manager of the San Jose Cannabis Buyer's Collective that opened recently near the Valley Fair shopping mall, said the city's only current medicinal marijuana dispensary welcomes Oliverio's proposal even though it will add to its tax bill.

"What I see is legitimacy of our business," Donowho said. He added that the collective already does not allow on-site use and has a strict, two-day verification procedure for patients. The collective currently has 1,300 patients.

Two dispensaries in Santa Clara are the only others known to be operating in Santa Clara County. There are several in San Francisco, Oakland, Berkeley and Santa Cruz.

Despite voters' 1996 approval of Proposition 215 legalizing medicinal marijuana, providers have had a tough time avoiding legal troubles. Though 13 other states now have similar laws, the U.S. government has continued to treat marijuana as a narcotic without legitimate medicinal benefits, and federal drug raids have shut down many state-sanctioned dispensaries. That may change after the U.S. Attorney General this month called for easing up on medicinal marijuana use.

But operators have also been shut down for failure to comply with local regulations. In the late 1990s, the director of the former San Jose-based Santa Clara County Medical Cannabis Center, Peter Baez, was prosecuted after police alleged marijuana was sold to people without a doctor's recommendation.

Oliverio said that with the feds easing up and dispensaries opening nearby, San Jose needs to get in front of the issue before City officials "find ourselves behind the eight-ball."